

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

MARK JOSEPH and MARY JOSEPH,

Plaintiffs,

v.

WESTERN STAR TRUCK SALES, INC.,  
and DETROIT DIESEL CORPORATION,

Defendants.

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Case No. 8:05CV0421

**DEFENDANT DETROIT DIESEL'S  
MOTION FOR  
SUMMARY JUDGMENT**

Defendant Detroit Diesel Corp. ("Detroit Diesel"), by and through its counsel of record, and pursuant to Fed. R. Civ. P. 56(b) and NECivR 56.1, moves for summary judgment on the claims contained in the Amended Complaint (Doc. 21) filed by Plaintiffs Mark Joseph and Mary Joseph ("Plaintiffs"). Detroit Diesel asserts that there exists no genuine issue of fact for trial and that it is entitled to judgment as a matter of law on Plaintiffs' claims for Breach of Contract/Warranty (Count 1), Violation of Lemon Law (Count 2), and Breach of Implied Warranties (Count 3).

In support of this Motion, Detroit Diesel adopts and incorporates its Memorandum In Support Of Motion For Summary Judgment and the Evidence Index In Support Of Detroit Diesel's Motion For Summary Judgment as if fully set forth herein.

Dated this 6th day of April, 2007.

DETROIT DIESEL CORPORATION,

By: /s/ Victor C. Padios  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 6th day of April, 2007, the foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system, which sent electronic notification of such filing to all CM/ECF participants.

/s/ Victor C. Padios  
Victor C. Padios